

CLEAN DRAFT WITH CHANGES FOR REFERENCE ONLY**Chapter 596: Overboard Discharges: Licensing And Abandonment**

SUMMARY: This chapter describes the criteria for issuing licenses for overboard discharges. Existing overboard discharge licenses may be renewed if there is no alternative way of disposing of the wastewater and the discharge does not affect water quality or enter a stream of insufficient volume or flow rate.

This chapter also explains the procedure for transfer, re-opening and abandonment of overboard discharge licenses.

1. **Applicability of Chapter 2.** Unless specified differently in this chapter, the requirements in the Maine Department of Environmental Protection's (Department) *Rules Concerning the Processing of Applications and Other Administrative Matters* 06-096 CMR 2 (April 1, 2003), apply to overboard discharge applications.
2. **Applicability of Other Regulations.** Unless specified differently in this rule or found to be not applicable due to the nature and type of discharge, the requirements of Department's Rules 520 to 529 concerning the regulation and processing of waste discharge applications, apply to overboard discharges.
3. **Definitions.** The terms used in this chapter are defined as follows.
 - A. **Blackwater.** "Blackwater" is wastewater containing domestic pollution that includes human excrement and urine.
 - B. **Domestic Pollutants.** "Domestic Pollutants" are any materials including, without limitations, sanitary wastes, waste water from household activities or wastewaters with similar chemical characteristics, which are generated at residential or commercial locations.
 - C. **Facility.** "Facility" includes all structures that are assigned wastewater discharge volumes according to the *Maine Subsurface Waste Water Disposal Rules* (Subsurface Rules) 10-144 CMR 241, connected to the waste discharge system or will use it during normal operation.
 - D. **Graywater.** "Graywater" is wastewater containing domestic pollutants excluding human excrement and urine.
 - E. **Licensee.** The person, persons, or legal entity identified on the license.
 - F. **Overboard Discharge.** An "Overboard Discharge" is a discharge to the surface waters of the State of domestic pollutants not conveyed to and treated in municipal or quasi-municipal sewage treatment facilities.
 - G. **Public Nuisance Condition.** A public nuisance condition means an existing overboard discharge to a receiving water that is:
 - (1) A Class GPA, AA, A, or SA water;
 - (2) A tributary to Class GPA water;

- (3) A waterbody with a drainage area of less than 10 square miles; or
- (4) Contribute to a violation of Maine's *Water Classification Laws* 38 M.R.S.A. §§ 464 to 470.

H. Seasonal Residential Overboard Discharge. A "Seasonal Residential Overboard Discharge" means an overboard discharge from a human habitation that is occupied for less than 8 months in any calendar year.

I. Shellfish Harvesting Area. A "Shellfish Harvesting Area" is an area where shellfish, including any species of clams, quahogs, mussels and oysters are or may be located, including known productive areas; areas where shellfish may be found; habitat where it is reasonable to assume shellfish may be found in the future; and, areas where shellfish may be stored (wet storage), processed or cultivated, as determined by the Department of Marine Resources.

J. Year-round Residential Overboard Discharge. A "year-round residential overboard discharge" means an overboard discharge from a human habitation that is continuously occupied for 68 months or more in any calendar-year.

4. Previously Unlicensed Overboard Waste Discharges

A. License Qualification. The Department shall issue a license for an existing but previously unlicensed overboard discharge only if all of the following criteria are met.

- (1) The applicant demonstrates with evidence acceptable to the Department that an overboard discharge was in continuous existence for the 12 months preceding June 1, 1987.
- (2) The applicant demonstrates to the Department's satisfaction that a subsurface wastewater disposal system cannot be installed in compliance with the Subsurface Rules, 10-144 CMR 241, on land owned or controlled by the applicant.
- (3) A publicly owned sewer line is not located on or abutting land owned or controlled by the applicant or is not available for the applicant's use.
- (4) The discharge is not located within the boundaries of a sanitary or sewer district and the district has not agreed to service and maintain a holding tank at an annual fee that does not exceed those fees charged to other similar users of the district's services who are physically connected to the sewers of the district.
- (5) The discharge is not a seasonal residential overboard discharge located on the mainland or on any island connected to the mainland by vehicle bridge or scheduled car ferry service.
- (6) The receiving water is not:
 - (a) A Class GPA, AA, A, or SA water;
 - (b) A tributary to Class GPA water; or
 - (c) A waterbody with a drainage area of less than 10 square miles; and.

(7) The discharge meets the requirements of *Maine's Pollution Control Laws* 38 M.R.S.A. §§ 414-A, *Maine's Water Classification Laws* 38 M.R.S.A. §§ 464 to 470.

(8) The discharge receives best practicable treatment consistent with requirements included under Section 10 of this Chapter.

B. Prohibited Increases. The addition of wastewater from a structure that was not in continuous existence for 12 months preceding June 1, 1987 is prohibited. The waste discharge license discharge volume will be equal to the actual or estimated volume produced by the facility connected to the overboard discharge system during the 12 months prior to June 1, 1987.

C. Treatment System Installation. A waste discharge license may not be issued unless the waste water treatment facilities are constructed and operable.

D. License Disqualification. Any applicant for a new waste discharge license who fails to satisfy criteria contained in Section 4, Paragraph(A)(1 to 8) of this Chapter is denied a waste discharge license and ordered to terminate the discharge.

5. Renewal of Overboard Discharge Licenses

A. License Qualification. After accepting a renewal application as complete for processing, the Department shall approve an overboard waste discharge license only if all of the following criteria are met.

(1) The volume or quantity of waste water that is discharged does not exceed the volume or quantity authorized by the previous license or, when multiple discharges are combined into a single outfall, the total volume or quantity of the combined licenses.

(2) The number of months during which the discharge occurs is not more than the number of months authorized by the previous license.

(3) The receiving water is not:

- (a) A Class GPA, AA, A, or SA water;
- (b) A tributary to Class GPA water; or
- (c) A waterbody with a drainage area of less than 10 square miles,

unless it is demonstrated to the Department's satisfaction that no alternative to the discharge exists.

(4) The discharge meets the requirements of *Maine's Pollution Control Laws* 38 M.R.S.A. §§ 414-A, *Maine's Water Classification Laws* 38 M.R.S.A. §§ 464 to 470.

(5) A subsurface wastewater disposal system cannot be installed in compliance with the Subsurface Rules, 10-144 CMR 241, on land owned or controlled by the applicant.

- (6) A publicly owned sewer line is not located on or abutting land owned or controlled by the applicant or is not available for the applicant's use.
- (7) The discharge is not located within the boundaries of a sanitary or sewer district and the district has not agreed to service and maintain a holding tank at an annual fee that does not exceed those fees charged to other similar users of the district's services who are physically connected to the sewers of the district.
- (8) The discharge is not a seasonal residential overboard discharge located on the mainland or on any island connected to the mainland by vehicle bridge or scheduled car ferry service. and removal of the discharge, alone or in combination with other discharges will result in the opening of a shellfish harvesting area.
- (9) The discharge receives best practicable treatment consistent with requirements included under Section 10 of this Chapter.

B. Prohibited Increases. An increase in wastewater volume resulting from the addition of a structure that was not in continuous existence for 12 months preceding June 1, 1987 is prohibited unless a discharge from the structure was authorized by the previous license. An increase in wastewater volume from a structure may be allowed in cases where the administrative record clearly demonstrates that the Department made an error or omission during previous licensing approvals for that facility. The addition may not exceed the corrected discharge volume during the qualifying time period.

C. Disqualification of Increases. The Department may only renew a waste discharge license if the applicant demonstrates compliance with subsection A. The Department may issue a waste discharge license for the allowable discharge and may require the removal of any non-compliant portions of the discharge.

D. Treatment System Installation. A waste discharge license may not be renewed unless the licensed waste water treatment facilities are constructed and operable.

6. License and Permit Conditions

A. Standard and Special Conditions. Overboard discharge licenses issued by the Department must contain appropriate standard conditions and any other special conditions deemed necessary by the Department to achieve compliance with Maine laws. The standard conditions will include any applicable standards identified in Chapter 523, Section 2, and Chapter 525, Section 3.

B. Volume Limitation. The waste discharge volume limit of the renewed license is determined as follows.

- (1) If the facility is a college, university, school union or school administrative unit, the discharge volume limit is:
 - (a) The limit imposed by the previous license or permit; or
 - (b) The actual or estimated flow at the time of current application if a license volume increase is necessary; or
 - (c) An alternate limit if (b) above will violate 38 M.R.S.A. § 464, or 465.

- (2) If Section 6, Paragraph (B)(1) above is not applicable, the discharge volume limit is the lesser of the following:
 - (a) The volume limit of the previous license or licenses, unless it is determined that the Department made an error during the prior licensing as described in Section 5(B); or
 - (b) The volume equal to the actual or estimated volume produced by the facility connected to the overboard discharge system during the 12 months prior to June 1, 1987.
- (3) Unless defined otherwise in the license, volume limitations are daily maximum limit.

C. Seasonal Use Determination. The months during which a discharge can occur is limited in a license to the following.

- (1) The actual use of the facility at the time of the most recent license application filed prior to June 1, 1987; or the actual use of the facility during the 12 months prior to June 1, 1987 whichever is greater;
- (2) If the facility was the primary residence of the owner at the time of the most recent application filed prior to June 1, 1987 or during the 12 months prior to June 1, 1987, the facility is considered to have a year-round discharge;
- (3) If the previous license restricted the months during which a discharge could occur, the license being issued must restrict the discharge to the same months; or
- (4) If the previous license authorized the discharge for more than six months, the license being issued must authorize year-round use;

D. Seasonal Use Limitation. If the discharge is determined to be seasonal the license being issued shall restrict the discharge to the period from April 15th, to November 1st or the actual months of the discharge as of June 1, 1987, as demonstrated by the applicant whichever is greater.

E. Special Conditions For Mechanical Treatment Systems

- (1) The licensee shall maintain a service contract for any and all treatment equipment and facilities with a service organization or individual acceptable or to the Department. A signed copy of the service contract must be forwarded or presented to the Department upon request for review and approval.
- (2) An alarm system of a design approved by the Department staff must be installed. The alarm system must be connected to and visible at a central location.
- (3) A tag, provided by the service contractor, must be attached to the treatment system or displayed near the treatment system in an accessible manner. The tag must show the name of the service contractor, the date of the most recent visit by the service contractor and the initials of the person conducting the service.
- (4) Prior to renewing or transferring the license, the treatment system must have passed 75% of regular compliance inspections. If the treatment system fails to meet this condition, the

licensee must install a new treatment system that will meet the license conditions or make operational changes that will result in consistent compliance.

F. Special Conditions For Sand Filter Systems

- (1) At least five (5) working days prior to the construction of an approved sand filter, the licensee shall contact the Department to schedule inspection of the system during construction.
- (2) The licensee shall ensure that the septic tank connected to the sand filter is pumped at least once every three years. Periodic cleaning of the disinfection unit housing chamber may be necessary for removal and proper disposal of any solid material buildup.

7. Transfers of Waste Discharge Licenses and Conditional Permits. Every overboard discharge license or permit issued by the Department may be transferred subject to the following conditions.

A. Site Evaluation Requirement. Prior to a property transfer a site evaluation has been performed by a licensed site evaluator with experience in designing systems for the replacement of overboard discharges. The site evaluator must explicitly conclude that a non-discharging wastewater disposal system designed in compliance with the Subsurface Rules, 10-144 CMR 241 cannot be installed;

B. Complete Application Requirement. A transfer application accepted as complete for processing is received including any other required materials,

C. Liability of Parties to Sale. Pending approval of a transfer or assignment of ownership of any license or permit, the person to whom such property is transferred or assigned shall abide by all of the conditions of such license or permit and shall be jointly or severally liable for any violation of the terms and conditions thereof. Any proposed transferee or assignee shall demonstrate the technical and financial capacity and intent to: (1) comply with all standards of the applicable license or permit, and (2) to satisfy all applicable statutory criteria.

8. Abandonment of Overboard Discharge Systems. When an overboard discharge treatment system is not longer necessary or is replaced by an alternative treatment system, it must be properly abandoned within 90 days as follows.

A. Residual Wastewater. Waste water remaining in the system must be discharged in accordance with the active or most recently expired license or permit or removed and disposed at a facility authorized by the Department to receive such wastes. The property owner must also perform the following , as applicable.

- (1) Mechanical treatment systems must be aerated until 24 hours before they are emptied. After the contents have settled, the supernatant liquid may be discharged through the chlorinator at a rate that does not exceed the design capacity of the chlorinator or the chlorine detention tanks. Waste water containing settled solids may not be discharged to the water;
- (2) The contents of the chlorinator may be emptied to the water no sooner than 30 minutes after last receiving waste water. Any solids contained in the chlorinator may not be discharged to the water; and

(3) Any tanks which contain untreated or primary treated waste water, including but not limited to septic tanks and grease traps, may not be discharged directly or indirectly to the water.

B. Sand Filters. If the abandoned treatment system is a sand filter with a capacity of less than 1000 gallons per day, the chlorine contact tank must be removed and the hole filled with crushed gravel to serve as a dry well. If the capacity of the sand filter is 1000 gallons per day or greater, the downgradient end of the sand filter must be excavated and the liner punctured sufficiently to allow rain water to drain.

C. Tanks. All tanks including but not limited to, grease traps, septic tanks, mechanical treatment systems, pump stations and chlorinator tanks that are not utilized as part of an alternative method of waste water disposal must be disconnected and filled with soil or removed.

D. Effluent Pipe. Any exposed portion of the final effluent line must be removed and the remaining effluent pipe permanently sealed;

9. Additional Permitting and Notification Requirements

A. Natural Resources Protection Permit by Rule Exemption. A licensee who holds an overboard discharge license or conditional discharge permit are not required to obtain a permit under the *Natural Resources Protection Act* 38 M.R.S.A § 480-C for the installation, maintenance or abandonment of waste water treatment facility or the installation of an alternative a waste water disposal system. Construction or abandonment activities, however, must comply with all the requirements of the applicable Natural Resources Protection Act standards.

B. Notification Requirement. The licensee or the licensee's agent must notify the Department of the proposed installation, modification or abandonment of waste water treatment facilities or installation of an alternative waste water disposal system at least five (5) working days before commencing work. The notification must be sent to:

Overboard Discharge Program
Bureau of Land and Water Quality
Department of Environmental Protection.
State House Station 17
Augusta, ME 04333-0017

10. Best Practicable Treatment for Overboard Discharges. Best practicable treatment must be determined by the process defined in the Department's Criteria and Standards for Waste Discharge Licenses, 06-096 CMR 524 unless specifically defined in the Effluent Guidelines and Standards, 06-096 CMR 525 or the Section.

A. Treatment Requirements for Combined Blackwater and Graywater Discharges. All overboard discharge wastewater must receive best practicable treatment is as follows.

(1) A non-discharging wastewater disposal system designed and installed in compliance with the Subsurface Rules, 10-144 CMR 241, or connection to a publicly owned sewage collection and treatment system.

- (2) A holding tank, where Section 10, Paragraph (A)(1), of this Chapter is not feasible and the facility is a seasonal overboard discharge located on the mainland or an island connected by vehicle bridge or scheduled car ferry service as long as the discharge's removal, alone or in conjunction with other discharges would result in the opening of a shellfish harvesting area.
- (3) Where Section 10, Paragraph (A)(1) of this Chapter has been demonstrated not feasible and the conditions described in Paragraph 4 of this Chapter are not applicable, a septic tank followed by treatment in a sand filter bed followed by disinfection is deemed best practicable treatment. The sand filter must be of a Department approved design and must be sized to provide a minimum treatment area of one gallon per square foot per day; or
- (4) Where kitchen waste water or similar effluents containing a significant quantity of oil or grease are discharged, or where small property lot sizes will not accommodate the installation of a sand filter, a mechanical treatment system using an aeration and settling process followed by disinfection shall be deemed best practicable treatment. The licensee must maintain a service contract with a person certified pursuant to 06-096 CMR 517 of the Department's Rules.

B. Treatment Requirements for Graywater Discharges. Where Section 10, Paragraphs (A)(1 and 2) of this Chapter are not feasible, appropriate treatment for graywater is a settling tank followed by disinfection.

C. Treatment Requirements for Remote Islands with Intermittant power supplies or primitive water supplies. Where conditions exist that make installation or operation of treatment systems meeting Section 10, Paragraphs (A)(1 to 4) difficult, the licensee must submit a plan to provide the highest appropriate level of wastewater treatment to the Department for approval prior to relicensing.

11. Applicability. This chapter applies to all decisions by the Department affecting the overboard discharge licenses issued on or after the effective date of this chapter.

AUTHORITY: 38 M.R.S.A., Sections 413(3), 414(3-A), 414-A(1)(B),
464 (4)(A), 464 (4)(G), 464 (7), 464(8)

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